IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

WP(C).No. 21392 of 2007(V)

PETITIONER:

M.J.JOSEPH, S/O.JOSEPH, AGED 47,
MULLAYIKKAL, PURAKKAD P.O., AMBALAPPUZHA,
ALAPPUZHA DISTRICT, REPRESENTED BY ITS REOPRESENTE
BY HIS POWER OF ATTORNEY HOLDER AND WIFE
MRS.SUNI JOSEPH, AGED 41, PARAPPALLIL AGENCY,
EDATUA PO., 689 573.

BY ADV. SRI.PRAKASH P GEORGE.
SRI.B.PREMNATH

RESPONDENTS:

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1. V.K.ANTONY, S/O.KURIAKOSE, AGED 70,
MARINE VANIYAPPURACKAL, THYCHIRA, PURAKKAD PO,
PURAKKAD GRAMA PANCHAYATH WARD NO.VI,
AMBALAPPUZHA, ALAPPUZHA DISTRICT.

2. S.RAMESHAN, S/O.SREEDHARAN, AGED 57,
KRISHNA PRIYA HOUSE, THYCHIRA, PURAKKAD P.O.
PURAKKAD GRAMA PANCHAYATH WARD NO.VI,
AMBALAPPUZHA, ALAPPUZHA DISTRICT.

3. THE SECRETARY,
GRAMA PANCHAYATH OFFICE,
PURAKKAD, PURAKKAD PO,
AMBALAPPUZHA, ALAPPUZHA DISTRICT.

4. THE SECRETARY,
AMBALAPPUZHA BLOCK PANCHAYATH OFFICE,
SANATHANAPURAM P.O.,KALARKODU, ALAPPUZHA - 3.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

WP(C)No. 21392 OF 2007 V

Dated this the 11th July, 2007.

JUDGMENT

This writ petition is filed seeking to set aside the order passed by the learned Munsiff, Alappuzha in I.A.4194/06 in O.S.767/05. It was an application for an issuance of a commission and the court by the impugned order had appointed a commissioner for ascertaining the thodu puramboke. Learned counsel for the writ petitioner very vehemently contends that considering the nature of dispute involved in this case it is not necessary to have a commissioner's report regarding thodu puramboke. I have gone through the pleadings of the defendant in the case. In para 7 it is specifically contended that the people in the locality are using the puramboke land as road and the claim of the plaintiffs that the road passes through plaint items 1 and 2 are not correct and hence denied. The contention of the plaintiff is that the property which he claims right and possession is his property and there is no thodu puramboke or any other puramboke involved. If it is a puramboke it will have altogether a dimension. Then it has to be held that by virtue of the provisions of Section 82 of the Old Panchayat Act, it will vest in the Panchayat and necessary consequences will follow. So, though it is a

suit for injunction, the nature of property also assumes importance in this case because if it is a thodu purmaboke then the plaintiff cannot claim right over the property. By finding out whether the property is thodu puramboke it is not going to affect the rights of the plaintiff and only on ascertainment of the same there can be a proper determination. Therefore, I do not find any mistake on the part of the court in issuance of a commission to ascertain whether the property is thodu puramboke. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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